

QUILL
So Fast.
So Simple.™

#294
pg 1

ORDINANCE NO. 294

SERIES, 1941

AN ORDINANCE PROVIDING FOR THE ACQUISITION AND OPERATION OF A MUNICIPAL ELECTRIC LIGHT AND POWER SYSTEM FOR AND BY THE CITY OF LAS ANIMAS, COLORADO, CONSISTING OF A GENERATING PLANT AND DISTRIBUTION SYSTEM WITH ALL NECESSARY APPURTENANCES; AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$420,000.00 CITY OF LAS ANIMAS ELECTRIC LIGHT AND POWER REVENUE BONDS FOR THE PURPOSE OF DEFRAYING THE COST OF SUCH ACQUISITION; PRESCRIBING THE FORM OF SAID BONDS AND OTHER DETAILS IN CONNECTION THEREWITH; PROVIDING FOR THE COLLECTION AND DISPOSITION OF THE REVENUES TO BE DERIVED FROM SUCH SYSTEM; PROVIDING FOR THE PAYMENT OF SAID BONDS; REPEALING ORDINANCE NO. 291, SERIES 1941, ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF LAS ANIMAS AT ITS REGULAR MEETING ON MONDAY, THE 3RD DAY OF MARCH, 1941, AND ORDINANCE NO. 293, SERIES 1941, ADOPTED AND APPROVED ON THE 7TH DAY OF JULY, 1941; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Las Animas, in the County of Bent and State of Colorado, is a public municipal corporation organized and existing under and by virtue of the constitution and laws of the State of Colorado; and

WHEREAS, the City of Las Animas and the inhabitants thereof are now supplied with electricity for light, heat and power purposes by means of a distribution system, consisting of poles, wires and other appurtenances, owned by The Western Public Service Company, operating in the City of Las Animas under and by virtue of Ordinance No. 253, adopted and ap-

65

#284
Pg 2

proved the 5th day of January, 1925, which provided in part as follows:

"Section 8. The City shall have the right to purchase the plant, transmission lines, distribution system, et cetera, in accordance with the provisions of the Public Utilities Act, of the State of Colorado."

AND WHEREAS, on the 17th day of December, 1940, the City Council of the City of Las Animas duly passes and adopted Ordinance No. 290, Series, 1940, containing a plan for the acquisition of a municipal light and power system and providing for the submission of the question of the approval of said ordinance to a vote of the qualified property electors of the City of Las Animas as had in the next year preceding the year of the election paid a property tax therein; and

WHEREAS, in accordance with said Ordinance No. 290, Series, 1940, finally adopted and approved on the 17th day of December, 1940, and in accordance with the laws of the State of Colorado, the question of approving Ordinance No. 290, Series 1940, adopting a plan for the acquisition of a municipal electric light and power plant and electrical distribution system, to be financed by the issuance of municipal bonds in the amount of \$275,000.00, payable solely from the revenues of the system proposed to be acquired, was submitted to the qualified property electors of the City of Las Animas who in the next year preceding the year of said election had paid a property tax therein, at a special election duly called and held in said City on the 14th day of January, 1941; and

WHEREAS, on the 17th day of January, 1941, all returns having been duly received from the judges in the several wards and precincts within the City of Las Animas, the Clerk of the City of Las Animas opened said returns and calling to his assistance the Mayor of the City and in his presence, proceeded to canvass the same making an abstract of the votes cast upon said question, from which it appeared that a total of 499 ballots were cast upon the question of the approval of Ordinance No. 290, Series, 1940, of which 371 were cast whereon were placed the words "For the approval of Ordinance No. 290, Series 1940, and for the acquisition of a municipal electric light and power plant and electrical distribution system." and 128 ballots were cast whereon were placed the words, "AGAINST the approval of Ordinance No. 290, Series 1940, and against the acquisition of a municipal electric light and power plant and electrical distribution system;" and

WHEREAS, on the 28th day of January, 1941, the City Council of the City of Las Animas duly adopted a resolution determining and declaring that the election held as aforesaid resulted in the approval of Ordinance No. 290, Series 1940; and

WHEREAS, said Ordinance No. 290, Series 1940, provided that the City of Las Animas should acquire by purchase or condemnation the present electrical distribution system owned by The Western Public Service Company and serving the City of Las Animas and its inhabitants, and also including that portion of the distribution system now owned by The Western Public Service Company which serves fringe line rural territory in the immediate vicinity of Las Animas, provided such acquisition could be accomplished at a price satisfactory to the City Council, and also providing that in the event of failure to acquire said electrical distribution system, the City could construct a new electrical distribution system; and

4 294
pg 3

WHEREAS, thereafter, pursuant to proceedings duly had and taken, the City awarded a contract to Fairbanks, Morse & Co. for the construction of a complete municipal electric light and power system at a total cost of \$228,500.00, but subject to the privilege of the City to eliminate from the project to be acquired and from the contract, the distribution system in the event the City should acquire the distribution system of The Western Public Service Company; and

WHEREAS, the City has heretofore, in accordance with said construction contract with Fairbanks, Morse & Co., eliminated from the said construction contract the distribution system, to have cost under said construction contract the sum of \$83,000.00; and

WHEREAS, The Western Public Service Company has refused to agree to a voluntary sale of that part of its electrical distribution system now located within the limits of the City of Las Animas and fringe territory, unless the City will also acquire ^{the} remainder of the properties of The Western Public Service Company in Bent County; and

WHEREAS, the Company and the City have agreed upon \$225,000.00 as the fair price of all of the properties of the Company in Bent County, including the properties of the Company located on the Fort Lyon Hospital reservation, and did, under date of September 16, 1941, execute an option agreement under which the Company agrees to sell the City said Bent County distribution system at any time prior to January 1, 1942, to which agreement reference is hereby made; of which total price not less than \$125,000.00 represents the fair value of the distribution system located within the City of Las Animas and fringe territory; and

WHEREAS, the City Council has employed competent engineers and has made or caused to be made a survey of the needs and requirements of the City of Las Animas in relation to the proposed municipal electric light and power system, has had certain preliminary reports prepared covering the acquisition of said electric light and power generating system and the said entire electrical distribution system of The Western Public Service Company now located within the boundaries of Bent County, Colorado, at a cost not exceeding \$420,000.00, and has entered into an agreement with E. T. Archer & Company, Consulting Engineers of Kansas City, Missouri, employing said company to serve as special engineer on behalf of the City in connection with the acquisition and construction of a municipal light and power plant and electrical distribution system, by construction, purchase or condemnation, in accordance with the terms of that certain written agreement, dated the 22nd day of April, 1940; and

WHEREAS, the City has determined and does hereby determine that it is for the best interests of the City that it acquire the entire Bent County properties of The Western Public Service Company as aforesaid, rather than to resort to expensive and protracted litigation for the purpose of condemning that part of said The Western Public Service Company's properties lying within the limits of the City and fringe territory; and

WHEREAS, the City Council has found and determined and does hereby find and determine that, because of the grave national emergency existing at the present time and the prospective shortages of material required in the construction of the electrical generating and distribution systems, it is to the best interests of the City that no further delays in the acquisition and completion of its electrical distribution and generating system be encountered and that the said outlying distribution system of The Western Public Service Company, which the City contemplates would otherwise be acquired in the future as a betterment and an extension to the said generating system and distribution system, proposed to be acquired within

#294
pg 4

the City and fringe territory, be acquired immediately and without further delay; and

WHEREAS, the City Council has found and determined and does hereby find and determine that it is for the best interests of the City of Las Animas, its inhabitants and the inhabitants of Bent County, Colorado, that its electric light and power system proposed to be acquired and constructed as aforesaid be fortified against contingent breakdowns or power shortages by the provision of a means of acquiring standby or emergency power from The Southern Colorado Power Company, which provision can best be made by acquisition by the City of that part of the distribution system of The Western Public Service Company in Bent County lying outside the City of Las Animas and fringe territory in addition to that part of the distribution system of said Company lying within the City of Las Animas and fringe territory; and

WHEREAS, the City Council has found and determined and does hereby find and determine that said proposed acquisition of the entire properties of The Western Public Service Company now located in Bent County, Colorado, will, when said distribution system is connected with the generating system to be constructed by Fairbanks, Morse & Co. as aforesaid, and with the lines of The Southern Colorado Power Company for the purpose of securing supplementary emergency and standby power, enable the Fort Lyon Hospital of the United States, and industrial, institutional and private consumers in Bent County to enjoy a reliable and dependable means of electrical power distribution during the present national emergency and thereafter, and that the public convenience and necessity of the citizens of the City of Las Animas and of Bent County will be best served by the construction of said generating system and the acquisition of the said entire distribution system of The Western Public Service Company now located in Bent County, Colorado; and

WHEREAS, in order to carry out the will of the electorate of the City of Las Animas expressed at the special election held the 14th day of January, 1941, the City Council has determined and does hereby determine forthwith to acquire, operate and maintain a municipal electric light and power system for the City of Las Animas and surrounding territory, by the construction of a generating plant with all necessary appurtenances, and by the purchase of the entire distribution system now owned and operated by The Western Public Service Company in Bent County Colorado; and

WHEREAS, in the exercise of the authority conferred upon said City and the City Council thereof by the qualified property electors of the City and by the constitution and laws of the State of Colorado, it is deemed advisable for the to issue, in full payment for the municipal electric light and power system to be acquired as aforesaid, interest-bearing revenue bonds in the aggregate principal amount of not to exceed \$420,000.00, which bonds shall be payable as hereinafter provided out of the earnings and revenues to be derived from the operation of said system, and secured by a pledge of such earnings and revenues, such revenue bonds, in no event, to be paid by taxation or out of the general funds of the

2974
p 85

City, except that the City shall pay reasonable rates for all light and power service actually rendered to the City of Las Animas, or its agencies, as such service is rendered and the charges therefor accrue:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAS ANIMAS:

Section 1. That for the purpose of attaining the objects hereinbefore recited, the City of Las Animas acquire a municipal electric light and power system, consisting of a generating plant to be constructed under a contract between the City and Fairbanks, Morse & Co., exclusive of the distribution system specified in said contract as aforesaid, and the entire distribution system in Bent County, Colorado, now owned and operated by The Western Public Service Company, with all necessary appurtenances.

Section 2. That all action heretofore taken by the City Council and by the officers of the City of Las Animas, directed toward the acquisition by the City of Las Animas of a municipal electric light and power system to be financed by issuance of its Electric Light and Power Revenue Bonds, be and the same is hereby ratified, approved and confirmed, and, without limiting the generality of the foregoing, the action of the Mayor and City Clerk of the City of Las Animas in executing on behalf of the City that certain agreement with E. T. Archer, doing business as E. T. Archer & Company, is hereby ratified, approved and confirmed.

Section 3. That for the purpose of defraying the cost of such acquisition, there shall be and there are hereby authorized to be issued, four hundred and twenty bonds of the City of Las Animas, to be known as "City of Las Animas Electric Light and Power Revenue Bonds, series of November 1, 1941." in the denomination of \$1,000.00 each, and in the total principal amount of \$420,000.00 (or such lesser amount as may be necessary to accomplish the purposes herein recited), which bonds shall bear date as of the first day of November, 1941, and shall consist of four hundred and twenty bonds, numbered consecutively from 1 to 420, both inclusive. Said bonds shall be negotiable in form, shall be numbered, mature in the amount and bear interest as follows:

NUMBERS	MATURITY	AMOUNT	INT. RATE
1-10, Inc.	Nov. 1, '43	\$10,000.00	2½ %
11-25, "	Nov. 1, '44	15,000.00	2½ %
26-40, "	Nov. 1, '45	15,000.00	3 %
41-60, "	Nov. 1, '46	20,000.00	3 %
61-80, "	Nov. 1, '47	20,000.00	3 %
81-100, "	Nov. 1, '48	20,000.00	3 %
101-125, "	Nov. 1, '49	25,000.00	3¼ %
126-150, "	Nov. 1, '50	25,000.00	3¼ %
151-175, "	Nov. 1, '51	25,000.00	3½ %
176-200, "	Nov. 1, '52	25,000.00	3½ %
201-225, "	Nov. 1, '53	25,000.00	3½ %
226-250, "	Nov. 1, '54	25,000.00	3½ %
251-275, "	Nov. 1, '55	25,000.00	3½ %
276-310, "	Nov. 1, '56	35,000.00	3 ¾ %
311-345, "	Nov. 1, '57	35,000.00	3 ¾ %
346-380, "	Nov. 1, '58	35,000.00	3 ¾ %
381-420, "	Nov. 1, '59	40,000.00	3 ¾ %

#294
Pg 6

Interest upon said bonds shall be payable semiannually on the first day of May and the first day of November in each year, and both principal and interest shall be payable at The United States National Bank of Denver, in Denver, Colorado, in lawful money of the United States of America.

Said bonds shall be redeemable at the option of the City, in reverse numerical order, on interest payment dates as follows:

Bonds numbered 1 to 320, both inclusive, shall be redeemable five years from the date thereof and on any interest payment date thereafter up to and including the first day of November, 1951, upon payment of the par value thereof together with accrued interest to the date of redemption and a premium of two per cent of the par value of the bonds so redeemed. The said bonds shall be redeemable thereafter on any interest payment date upon payment of the par value thereof together with accrued interest to the date of redemption:

Bonds numbered 321 to 350, both inclusive, shall be redeemable three years from the date thereof and on any interest payment date thereafter up to and including the first day of November, 1951, upon payment of the par value thereof together with accrued interest to the date of redemption and a premium of two per cent of the par value of the bonds so redeemed. The said bonds shall be redeemable thereafter on any interest payment date upon payment of the par value thereof with accrued interest to the date of redemption;

Bonds numbered 351 to 380, both inclusive, shall be redeemable two years from the date thereof and on any interest payment date thereafter up to and including the first day of November, 1951, upon payment of the par value thereof together with accrued interest to the date of redemption and a premium of two per cent of the par value of the bonds so redeemed. The said bonds shall be redeemable thereafter on any interest payment date upon payment of the par value thereof together with accrued interest to the date of redemption;

Bonds numbered 381 to 420, both inclusive, shall be redeemable one year from the date thereof and on any interest payment date thereafter up to and including the first day of November, 1951, upon payment of the par value thereof together with accrued interest to the date of redemption and a premium of two per cent of the par value of the bonds so redeemed. The said bonds shall be redeemable thereafter on any interest payment date upon payment of the par value thereof together with accrued interest to the date of redemption.

Redemption may be accomplished upon not less than thirty days' prior notice to the holder or holders of the bonds so to be redeemed. Notice of redemption shall be given by the City Treasurer, in the name of the City, by publication of such notice at least once in each calendar week, on any day of the week, for at least four successive weeks prior to the redemption date, in a daily newspaper published and of general circulation in the City and County of Denver, State of Colorado; the first of such publications to be made not less than thirty days

#294
pg 7

prior to the redemption date. Such notice shall specify the number of numbers of the bonds to be ^{so} redeemed (if less than all are to be redeemed) and the date fixed for redemption, and shall further state that on such redemption date there will become due and payable upon each bond so to be redeemed, at The United States National Bank of Denver, in Denver, Colorado, the principal amount thereof with the accrued interest to date and the premium, if any, as hereinbefore specified, and that from and after such date, interest thereon will cease to accrue. Notice having been given in the manner hereinbefore provided, the bond or bonds so called for redemption shall become due and payable on the redemption date so designated, and upon presentation thereof at The United States National Bank of Denver, together with all appurtenant coupons, if any, maturing subsequent to the redemption date, the City will pay the bond or bonds so called for redemption.

The revenue bonds hereby authorized shall be fully negotiable and shall have all the qualities of negotiable paper, and the holder or holders thereof shall possess all rights enjoyed by the holders of negotiable instruments under the provisions of the Negotiable Instruments Law. Both the principal of and the interest accruing upon said revenue bonds shall be payable in lawful money of the United States of America, at the United States National Bank of Denver, in Denver, Colorado. Said revenue bonds shall be signed by the Mayor of the City of Las Animas, with the seal of the City thereto affixed and attested by the City Clerk, and shall be countersigned by the City Treasurer. The interest coupons attached to said bonds shall be executed with the facsimile signature of the City Treasurer of the City of Las Animas, which official, by the execution of said bonds, shall adopt as and for his own proper signature, his facsimile signature appearing on said coupons. All of said revenue bonds together with the interest accruing thereon shall be payable solely out of the sinking fund hereinafter created, composed of earnings and revenues to be derived from the operation of said City of Las Animas municipal electric light and power system and not otherwise.

Section 4. Said revenue bonds and their appurtenant coupons shall be substantially in the following form:

(FORM OF BOND)

UNITED STATES OF AMERICA

STATE OF COLORADO

CITY OF LAS ANIMAS

CITY OF LAS ANIMAS

ELECTRIC LIGHT AND POWER REVENUE BOND

SERIES OF NOVEMBER 1, 1941

No.-----

\$1,000.00

The City of Las Animas, in the County of Bent, and State of Colorado, for value received, hereby promises to pay to the bearer hereof, solely from the special fund provided therefor as hereinafter set forth, on the first day of November, A. D. 19--, the principal sum of

ONE THOUSAND DOLLARS

and to pay, solely from said special fund, interest hereon at the rate of ----- per centum per annum, payable semiannually on the first days of May and November in each year, upon presentation and surrender of this bond and the annexed interest coupons as they severally become due. Both principal and interest are payable at The United States National Bank of Denver, in Denver, Colorado, in lawful money of the United States of America.

#294
09 8

This bond is one of an issue made for the purpose of acquiring a municipal electric light and power system, consisting of a generating plant and distribution system with all necessary appurtenances, to be hereafter owned and operated by the City of Las Animas, all in full conformity with the constitution and laws of the State of Colorado, certain ordinances and resolutions of said City duly adopted and approved prior to the issue hereof, and pursuant to the authority conferred by a majority of the qualified electors of the City of Las Animas voting at a special election duly called and held within said City. This bond does not constitute an indebtedness of the City of Las Animas within the meaning of any constitutional or statutory provision of limitation, but is payable solely out of a special fund created in full conformity with law and designated the "Las Animas Light and Power Fund," composed of earnings and revenues derived by the City from the operation of the municipal electric light and power system owned by the City; and it is hereby certified, recited and warranted that for the payment of this bond, the City of Las Animas will create and maintain said fund, deposit therein all receipts derived from the property acquired by the issue of its Electric Light and Power Revenue Bonds, Series of November 1, 1941, of which issue this bond is a part, and out of such receipts and as an irrevocable pledge thereof, and charge thereon, will pay this bond and the interest accruing hereon in the manner provided by the ordinance under which this bond is issued. For a description of said fund and the nature and extent of the security afforded thereby for the payment of this bond, reference is made to said ordinance.

The series of bonds of which this forms a part are subject to redemption in the reverse order of their numbers, at the option of the City as follows: Bonds numbered 1 to 320, both inclusive, may be redeemed on November 1, 1946, or on any interest payment date thereafter up to and including the first day of November, 1951, at a price equal to the principal amount thereof together with accrued interest to the redemption date and a premium of two per cent of the par value thereof, and may be redeemed thereafter on any interest payment date prior to maturity at a price equal to the principal amount thereof together with accrued interest to the redemption date; bonds numbered 321 to 350, both inclusive, may be redeemed on November 1, 1944, or on any interest payment date thereafter up to and including the first day of November, 1951, at a price equal to the principal amount thereof together with accrued interest to the redemption date and a premium of two per cent of the par value thereof, and may be redeemed thereafter on any interest payment date prior to maturity at a price equal to the principal amount thereof together with accrued interest to the redemption date; bonds numbered 351 to 380, both inclusive, may be redeemed on November 1, 1943, or on any interest payment date thereafter up to and including the first day of November, 1951, at a price equal to the principal amount thereof together with accrued interest to the redemption date and a premium of two per cent of the par value thereof, and may be redeemed thereafter on any interest payment date prior to maturity at a price equal to the principal amount thereof together with accrued interest to the redemption date; and bonds numbered 381 to 420, both inclusive, may be redeemed on November 1, 1942, or

294
189

on any interest payment date thereafter up to and including the first day of November 1947, at a price equal to the principal amount thereof together with accrued interest to the redemption date and a premium of two per cent of the par value thereof, and may be redeemed thereafter on any interest payment date prior to maturity at a price equal to the principal amount thereof together with accrued interest to the redemption date. Redemption shall be made upon not less than thirty days' prior notice by publication in a newspaper published and of general circulation in the City and County of Denver, State of Colorado, in the manner and upon the terms and conditions provided in the ordinance authorizing the issue of this bond.

It is further certified, recited and warranted that all the requirements of law have been fully complied with by the proper officers of said City in the issue of this bond.

IN TESTIMONY WHEREOF, the City of Las Animas has caused this Electric Light and Power Revenue Bond, Series of November 1, 1941, to be signed by the Mayor of the City of Las Animas, with the seal of the City hereunto affixed and attested by the City Clerk, and countersigned by the City Treasurer, and has caused the interest coupons hereto attached to be executed with the facsimile signature of said City Treasurer, which official, by the execution of this bond, does adopt as and for his own proper signature his facsimile signature appearing on said coupons, all as of this first day of November, A.D. 1941.

SEAL
Attest

/s/ Dan G...
City Clerk

/s/ J. N. Jordan
Mayor.

Countersigned:

City Treasurer.

(FORM OF COUPON).

No. -----

\$-----

On the first day of May, November, A. D. 19-- ("unless the bond to which this coupon is attached is sooner redeemed), the City of Las Animas in the County of Bent and State of Colorado, will pay to bearer, at The United States National Bank of Denver, in Denver, Colorado, the sum of

----- DOLLARS

in lawful money of the United States of America, solely from the special fund referred to in, and for the semiannual interest then due upon, its Electric Light and Power Revenue Bond, Series of November 1, 1941, and numbered-----,

City Treasurer.

To appear incoupons attached to bonds numbered 1 to 320, both inclusive, falling due on and after May 1, 1947; incoupons attached to bonds numbered 321 to 350, both inclusive, falling due on and after May 1, 1945; in coupons attached to bonds numbered 351 to 380, both inclusive, falling due on and after May 1, 1944; and in coupons attached to bonds numbered 381 to 420, both inclusive, falling due on and after May 1, 1943.

Section 5 (a) That when the City of Las Animas shall have commenced the operations of said light and power system, said system shall thereafter be operated continuously for the

224
pg 10

purposes of this ordinance on a fiscal basis commencing on the first day of January in each year and ending on the last day of December of the same year. From and after the delivery of any bond issued pursuant to this ordinance, the entire gross income and revenues of said system shall be set aside into a separate and special fund to be known and designated as the "Las Animas Light and Power Fund," which fund shall be used (1) for the maintenance of said system; (2) for providing a depreciation fund; (3) for the payment of the principal and the interest accruing on bonds issued under the provisions of this ordinance; and (4) for the payment of interest accruing and principal falling due on additional bonds, if any, which may hereafter be issued by the City subject to limitations hereinafter imposed, or for the prior redemption of bonds issued under the provisions of this ordinance; all as follows and in the following manner, to-wit:

(1) Out of said Las Animas Light and Power Fund there shall be set aside each year as an Operation and Maintenance Fund, such a percentage of said Las Animas Light and Power Fund as the City Council shall determine to be necessary for the proper operation and maintenance of said system. The said Operation and Maintenance Fund shall be used solely for the efficient and economical operation and maintenance of said system. Any surplus remaining in said Operation and Maintenance Fund at the end of any fiscal year and not needed for operation and maintenance purposes, shall be transferred to the Sinking Fund and used for the purposes thereof.

(2) Out of said Las Animas Light and Power Fund there shall be set aside each year as a Depreciation Fund, such a percentage of said Las Animas Light and Power Fund as the City Council shall determine to be necessary for making good any depreciation in said electric light and power system and in making such extensions or improvements thereof or additions thereto as the City Council may from year to year consider advisable; provided, however, that the amount so set aside each year as a Depreciation Fund shall be not more than ten per cent (10%) of the gross revenue of the system for the last preceding fiscal year.

Said Depreciation Fund shall be expended from time to time in making good any depreciation in said electric light and power system, and in making such extension or improvements thereof or additions thereto as the City Council may from year to year consider advisable. The amount in the Depreciation Fund shall be used whenever necessary to meet interest and principal requirements on said revenues bonds, and may be used at any time to call said bonds. Any accumulations in said Depreciation Fund which, in the opinion of the City Council, shall not be needed for the purposes of the Depreciation Fund, may, in the discretion of the City Council, be transferred to the Sinking Fund and used for the purposes thereof.

(3) There shall be and there is hereby created a fund to be known as the "Las Animas Electric Light and Power Revenue Bond Sinking Fund", into which there shall be set aside and paid from the gross income and revenues of said system such amount thereof as shall remain after making provision for said Operation and Maintenance and Depreciation Funds, and which amount shall be sufficient to

#284
Pg 11

pay the interest on and the principal of the bonds authorized by this ordinance promptly as the same becomes due. And it is hereby determined and declared that the amounts necessary to be set aside into said fund shall not be less than the following amounts for each fiscal year:

YEAR	PRINCIPAL	INTEREST	TOTAL
1942		\$14,312.50	\$14,312.50
1943	\$10,000.00	14,312.50	24,312.50
1944	15,000.00	14,062.50	29,062.50
1945	15,000.00	13,687.50	28,687.50
1946	20,000.00	13,237.50	33,237.50
1947	20,000.00	12,637.50	32,637.50
1948	20,000.00	12,037.50	32,037.50
1949	25,000.00	11,437.50	36,437.50
1950	25,000.00	10,625.00	35,625.00
1951	25,000.00	9,812.50	34,812.50
1952	25,000.00	8,937.50	33,937.50
1953	25,000.00	8,062.50	33,062.50
1954	25,000.00	7,187.50	32,187.50
1955	25,000.00	6,312.50	31,312.50
1956	35,000.00	5,437.50	40,437.50
1957	35,000.00	4,125.00	39,125.00
1958	35,000.00	2,812.50	37,812.50
1959	40,000.00	1,500.00	41,500.00

(4) Any balance remaining after the making of the payments hereinafter provided may be used by the City for the payment of interest accruing and principal falling due on additional bonds, if any, which may be issued by the City subject to the limitations hereinafter imposed, or for the prior redemption of the bonds issued under the provisions of this ordinance.

(b) The amount paid into said Sinking Fund created under the provisions of paragraph (a) (3) of this Section 5, shall be deposited in The United States National Bank of Denver and shall be used solely and only, and said fund is hereby expressly and exclusively pledged, for the purpose of paying the principal of and the interest on the bonds hereinauthorized to be issued. Said payments shall be made into said fund on the first day of each month, except that when the first day of any month shall be a Sunday or a legal holiday, then such payments shall be made on the next succeeding secular day. The amount of the monthly payments to be made into said Sinking Fund shall, commencing on the first day of the second month succeeding the date on which the City shall have commenced the operation of said light and power system, at least equal one-sixth of the amount necessary to pay the next maturing installments of interest accruing on said bonds, and commencing November 1, 1942, the amount of said monthly payments shall at least equal, in addition, one-twelfth of the next maturing installment of principal accruing on said bonds. In the event the income and revenues derived during any one month are inadequate to make the payments required to be made into said Sinking Fund, the deficiency shall be made up and paid as aforesaid from the first income and revenues thereafter received. No payment need to be made into said Sinking Fund if the amount then contained therein

#284
pg 12

is equal to the entire amount of the outstanding bonds to be issued under the provisions hereof, both as to principal and interest.

(c) Interest on said bonds accruing prior to the acquisition of said system and prior to the receipt of sufficient income therefrom to pay such interest, shall be paid from the proceeds derived from the issue of the revenue bonds hereby authorized to the extent that such interest is not available from funds received as accrued interest, and upon delivery of said bonds, or any part thereof, and the receipt of the proceeds thereof, the sum of not less than \$7,000.00, including the accrued interest received, shall be withdrawn from said proceeds and placed in said Sinking Fund to pay said interest. Whenever and as a sufficient surplus shall have accumulated in the Operation and Maintenance Fund herein created to balance the amount of the proceeds derived from the issue of said bonds so used to pay said interest, reimbursement from said Operation and Maintenance Fund to the Sinking Fund shall be made.

(d) The payments hereinbefore required to be made into said Operation and Maintenance and Depreciation Funds shall be made in equal monthly installments on the first day of each month, except that when the first day of any month shall be a Sunday or a legal holiday, then such payments shall be made on the next succeeding secular day. In the event the income and revenues during any one month are inadequate to make the required payments into said funds, the deficiency shall be made up and paid as aforesaid from the first income and revenues thereafter received.

(e) Monthly and after all payments provided for under Section 5 (a), subparagraphs (1), (2) and (3) and in the manner required by Sections 5 (b) and 5 (d) have been made as hereinbefore provided, there shall be paid into the general fund of the City of Las Animas the sum of \$350.00, which payment shall be charged to the Operation and Maintenance Fund as an expense of operation. Such additional amount ~~xxx~~ to be paid into the general fund of the City of Las Animas shall not be made or included as an expense of operation and maintenance as aforesaid for any month during which the payments required to be made by Section 5 (a), subparagraphs (1), (2) and (3) and in the manner required by Sections 5 (b) and 5 (d) hereof have not previously been made in full.

(f) That nothing in this ordinance shall be construed in such manner as to prevent the issuance by the City of Las Animas of additional bonds payable from the income and revenues derived from the operation of the system and constituting a lien upon said revenues; provided that before any such additional bonds are authorized or actually issued, the net earnings of the system for the twelve months next preceding the date of the issuance of such additional bonds or the prospective net earnings from the then owned system together with those from the additional property to be acquired or constructed as shown by certificate of the City Engineer, shall have been or will be equal to a sum represented by one hundred and twenty per cent (120%) of the total amount of the interest accruing and the principal (if any) becoming due during the next ensuing fiscal year on the bonds issued under the provisions of this ordinance and the interest accruing during the next ensuing twelve months on the additional bonds so proposed to be issued. In no event shall

#294
pg 13

the income and revenues of said system be used for or in any manner applied to the payment of the principal of any such additional bonds, unless and until all bonds issued under the provisions of this ordinance have been fully paid and discharged.

(g) That any balance remaining in said Las Animas Light and Power Fund after the payments hereinbefore required to be made shall be applied to the prior redemption of bonds as provided in Section 3 of this ordinance.

(h) IT is hereby represented to and covenanted with each holder of a revenue bond herein authorized that reference to the gross income and revenues of said electric light and power system as made in this ordinance is intended to include and shall be construed to include all revenues received by the City of Las Animas, or any municipal corporation succeeding to the rights of said City of Las Animas, from the operation of said electric light and power system of said City, and from the sale of electric current to the inhabitants of what is now the City of Las Animas (including all territorial annexations which may be made while said revenue bonds, or any thereof are outstanding) or from the sale of electrical energy distributed by means of the distribution system and operated by said City as the same may at any time exist, to serve customers outside the City limits as well as customers within said City limits.

Section 6 (a) That while the bonds hereby authorized, or any thereof, remain outstanding and unpaid, the rates for all services rendered by said electric light and power system to said City, and to its inhabitants, and to all consumers within or without the boundaries of said City, shall be reasonable and just taking into account and consideration the cost and value of said system and the cost of maintaining and operating the same, and the proper and necessary allowances for the depreciation thereof, and the amounts necessary for the retirement of all bonds and the accruing interest thereon, as may be issued hereunder, and there shall be charged against all users of electric current such rates and amount for services as shall be adequate to meet the requirements of this section and the preceding sections hereof.

(b) Should the City of Las Animas elect to use said electric light and power system to supply electric current for municipal light and power purposes, the City shall at all times, so long as any of the bonds issued hereunder remain outstanding and unpaid, pay into the Las Animas Light and Power Fund reasonable rates for all light and power service actually rendered to the City, or its agencies, as such services accrue.

(c) While any of the bonds hereby authorized are outstanding, the City of Las Animas will render bills to all customers for electrical service supplied by said system, on or about the first day of the month succeeding the month during which such services were rendered, and all bills so rendered shall become delinquent on the 10th day of the month. If said bills are not paid within forty days thereafter, electric service will be discontinued.

Section 7. That the City of Las Animas hereby covenants and agrees with each and every holder of any bond issued hereunder:

(a) That so long as any of the bonds issued hereunder remain outstanding, the City will maintain said electric light and power system in good condition and operate the same in an efficient manner and at reasonable cost;

(b) That so long as any of the bonds issued hereunder remain outstanding, the City will maintain insurance on said system for the benefit of the holder or holders of said bonds, of a kind and in an amount which would normally be carried by private companies en-

284
pg 14

gaged in a similar type of business. All premiums and all costs or charges incurred in connection with or by reason of such insurance, shall be paid out of the revenues derived from the operation of said system and in no event shall be a charge against the general funds of the City. The proceeds of any such insurance received by the City by reason of injury to or destruction of, or partial destruction of, said system, or any part thereof, shall be used to repair or replace that part or parts of said system so injured or destroyed, or, if not so used, shall be placed in and be subject to the provisions of the Sinking Fund hereinbefore created.

(c) That nothing herein shall be construed so as to require the City to expend any funds which are derived from sources other than the operation of said utility, except as by such agreement as may be made by the City under the provisions of Section 6 (b) to pay from its general fund the fair value of all service furnished the City by means of said system.

(d) That the City of Las Animas will keep proper books, records, and accounts separate from all other records and accounts, in which complete and correct entries shall be made of all transactions relating to the electric light and power system owned and operated by the City under the provisions of this ordinance. Said books and accounts shall be kept as nearly as may be in accordance with the rules and regulations established by the Colorado State Public Utilities Commission for privately owned utilities. On or before the 10th day of the second month after the City has commenced the operation of said system, and on or before the 10th day of each month thereafter, the City will furnish to the company or firm purchasing or underwriting said bonds and to The United States National Bank of Denver, a summary of the receipts and disbursements of said system for the preceding month and at least once a year shall furnish said purchaser or underwriter and bank with a copy of an annual audit of the accounts of said system, which audit shall be made by a certified public accountant acceptable to said bank, or to its successors or assigns.

(e) That the holder or holders of twentyfive per cent in aggregate principal amount of the bonds issued hereunder and at any time outstanding shall have the right at all reasonable times to inspect the system and all records, accounts and data of the City of Las Animas relating thereto and upon request the City of Las Animas will furnish to such bondholders such financial statements and other information relating to the City of Las Animas and its electric light and power system as such holder or holders may from time to time reasonably require.

(f) That so long as any of the bonds hereby authorized are outstanding, the City of Las Animas will not grant or renew any franchise or license to a competing electric light and power system, nor will it permit, except pursuant to such authority as has ~~been~~ heretofore been conferred, any person, firm or corporation, during said period, to sell electric current or power to any consumer, public or private, within the City of Las Animas.

Section 8. That the City of Las Animas hereby covenants and agrees with the holder or holders of the bonds hereby authorized, or any of them, that it will faithfully and punctually perform all duties with respect to said electric light and power system required by the constitution and laws of the State of Colorado

#294
1915

and ordinances of the City of Las Animas, including the making and collecting of reasonable and sufficient rates for service rendered by said system as hereinbefore provided, and will segregate the revenues of said system and apply said revenues to the respective funds created by this ordinance. The City covenants that it will not alienate said system, or any part thereof, or any of the extensions or betterments thereof or additions thereto, in such manner or to such extent as might jeopardize the security for the payment of said bonds from said City of Las Animas Light and Power Fund, (but the City may sell any portion of said system or property which shall have been replaced by other property of at least equal value of which shall cease to be necessary for the efficient operation of said system; provided, however, that in the event of any sale as aforesaid, such consideration shall be paid into said City of Las Animas Light and Power Fund, to be used for the purposes of said fund. The City further covenants and agrees that it will continuously operate said system and will charge and collect rents revenues and charges for service rendered thereby, so that the gross revenues will at all times be sufficient to provide for the payment of the operation and maintenance of said system and to maintain the Depreciation Fund and the Sinking Fund herein provided. Any holder of any one or more of said bonds, or any of the coupons representing interest thereon, may, either at law or inequity, by suit, action, mandamus or other appropriate proceeding in any court of competent jurisdiction, protect the lien created by this ordinance on the revenues of said electric light and power system, and may by suit, action, mandamus or other appropriate proceeding or proceedings, enforce and compel the performance of any duty imposed upon said City by the provisions of this ordinance, including the making and collecting of sufficient rates and charges and the segregation of the income and revenues of said system and the proper application thereof.

The City of Las Animas further covenants and agrees that if any default be made in the payment of the principal of or the interest upon any of said bonds then, upon the commencing of suit by any holder of said bonds or coupons, any court having jurisdiction of such action may appoint a receiver to administer said system on behalf of the City, with power to charge and collect rates sufficient to provide for the payment of all bonds and obligations outstanding against said system and for the payment of all operating expenses, and to apply the income and revenues derived from the operation of said system in conformity with the provisions of this ordinance.

Section 9. That the bonds authorized to be issued hereunder and from time to time outstanding, shall not be entitled to any priority one over the other in the application of the revenues of said electric light and power system, regardless of the time or times of their issue, it being the intention of the City Council of the City of Las Animas that there shall be no priority among the bonds authorized to be issued pursuant to this ordinance, regardless of the fact that they may be actually issued and delivered at different times.

Section 10. That in order to insure the completion of said electric light and power system, and to protect the holder or holders of the bonds to be issued hereunder; the City of Las Animas will require the contractor to whom is given any contract for the construction of said electric light and power system, or any part thereof, to supply a completion bond or bonds satisfactory to the City, and that any sum or sums derived from said completion bond or bonds shall be used within six months after such receipt for the completion of the constructions of said system, and if not so used within such period, shall be placed in and be subject to the pro-

#294
pg 16

visions of the Sinking Fund provided for herein for the payment of said revenue bonds and the ~~xx~~ interest thereon, and shall be used solely for the purpose of paying said bonds and the interest thereon.

Section 11. That the provisions of this ordinance shall constitute an irrevocable contract between the City of Las Animas and the holder of holders of the bond issued hereunder, and after the issuance of any of the bonds herein authorized, no change, variation or alteration of any kind in the provisions of this ordinance shall be made in any manner until such time as all of the bonds issued hereunder and the interest accruing thereon shall have been paid in full, except that the City may from time to time adopt ordinances supplementary hereto, dealing with the acquisition, management and operation of the system; provided, however, that the provisions of this ordinance shall not be altered or changed as to affect adversely the security hereby pledged to the payment of the revenue bonds hereby authorized to be issued.

Section 12. That said revenue bonds authorized as herein provided, when duly executed and delivered for the purpose of providing for the acquisition of a municipal electric light and power system and for the purpose of attaining the objects hereinbefore recited, shall constitute a warranty by and on behalf of said City, for the benefit of each and every future holder of any of said bonds, that said bonds have been issued for a valuable consideration in full conformity with law.

Section 13. That the Mayor, City Clerk, City Treasurer and other proper officers of the City of Las Animas be and they are hereby authorized and directed, in the name of the City of Las Animas, to take all necessary proceedings, execute all necessary contracts, and do all other things requisite to accomplish the provisions of this ordinance and to acquire, operate and maintain a municipal electric light and power system for the City of Las Animas, so that the provisions of this ordinance may in all respects be effectuated in manner and form as herein set forth.

Section 14. That notwithstanding anything in this ordinance contained, nothing herein shall be construed so as to impose an obligation upon the City requiring the City to expend any funds derived from sources other than from the operation of said municipal electric light and power system; and further, no obligation imposed upon the City of Las Animas by any provision of this ordinance shall constitute an indebtedness of the City of Las Animas within the meaning of any constitutional or statutory provision or limitation, but every such obligation shall be discharged solely out of the special fund herein created and designated the Las Animas Light and Power Fund, composed of earnings and revenues derived by the City from the operation of the municipal electric light and power system owned and operated by the City.

Section 15. That if any section, paragraph, clause or provision of this ordinance shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

Section 16. That Ordinance No. 291, Series 1941, passed and approved on the 3rd day of March, 1941, and Ordinance No. 293, Series, 1941, passed and approved on the 7th day of July, 1941, are hereby expressly repealed and that all ordinances,

294
pg 17

resolutions and orders, or parts thereof, in conflict with the provisions of this ordinance, are, to the extent of such conflict, hereby repealed.

Section 17. This ordinance, after its introduction and reading, shall be published in full in the Bent County Democrat, a newspaper of general circulation published ~~xxxxx~~ in the City of Las Animas, in its issue of October 10, 1941, and after its final passage shall be recorded in a book kept for that purpose, be authenticated by the signatures of the Mayor and City Clerk, and shall be finally published in the Bent County Democrat a newspaper published within the limits of the City of Las Animas, and shall take effect and be in force upon the expiration of five days after it has been finally published.

Section 18. That by reason of the fact that the City of Las Animas and its inhabitants are not properly or adequately supplied with electric light and power service at the present time, and by reason of the necessity of effectuating without delay the legislative policy of the City Council as herein declared and the will of the electorate as expressed at the special election held the 14th day of January, 1941, it is hereby declared that this ordinance is necessary for the immediate preservation of the public peace, health and safety.

INTRODUCED, READ AND ORDERED PUBLISHED this 6th day of October, 1941.

Adopted and approved this 22nd day of October, 1941.

F. H. Vandiver
(s) F. H. VANDIVER
Mayor.

(SEAL)

Attest:

D. A. McAFEE
(s) D. A. McAFEE
City Clerk.

min

Published Oct. 24, 1941.

STATE OF COLORADO)
COUNTY OF BENT) ss.
CITY OF LAS ANIMAS)

I, D. A. Mc Afee, City Clerk of the City of Las Animas, Colorado, do hereby certify that the foregoing ordinance, numbered 294, Series 1941, was read in full, and passed on its first reading and ordered published at a regular meeting of the City Council of the City of Las Animas held on Monday, the 6th day of October, 1941, and that it was published in full in The Bent County Democrat, a newspaper printed, published and of general circulation in the City of Las Animas, on the 10th day of October, 1941.

I further certify that said ordinance was placed on its second reading and final passage at a special meeting of the City Council held on Wednesday, the 22nd day of October, 1941, at least ten days after the first publication thereof, and that at said meeting said ordinance was read in full, finally passed, adopted, approved and ordered published in The Bent County Democrat.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said City, this 24th day of October, 1941.

D. A. McAFEE
/s/ D. A. McAFEE